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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/023,246	12/17/2001	Ajith Kuttannair Kumar	20-LC-5014(320)	6291

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EXAMINER

KIM, CHONG HWA

ART UNIT	PAPER NUMBER
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3682

DATE MAILED: 03/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n N .

10/023,246

Applicant(s)

KUMAR ET AL.

Examiner

Chong H. Kim

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-20 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5 and 8-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Lounsberry, III et al., U.S. Patent 4,856,617 (Lounsberry).

Lounsberry shows, in Figs. 1-5, a wayside rail lubrication apparatus comprising;
a sensor S associated with a first position on a rail for producing a lubrication signal
when a locomotive pulling a plurality of load cars passes the first position;

a lubricant dispensing apparatus for applying a lubricant to the rail at a second position
on the rail in response to the lubrication signal, the lubricant adapted to reduce the friction
between wheels of the load cars and the rail, the first position and the second position being
separated by a distance on the rail sufficient to prevent the lubricant from contacting drive
wheels of the locomotive (as described from column 3 line 44 to column 4, line 27);

the lubricant dispensing apparatus further comprising a lubricant container R for storing a
volume of lubricant, a pump P for delivering lubricant from the lubricant container to the rail,
and a refilling device (inherent) for adding lubricant to the lubricant container at no more than a
predetermined rate;

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a bypass device for selectively preventing the lubricant dispensing apparatus from applying the lubricant in response to the lubrication signal (as described in column 6 lines 4-25);

a means for terminating the application of the lubricant to the rail by the lubricant dispensing apparatus before a number of the load cars at a rear of the train pass the second position;

wherein the bypass device comprises an environmental signal (TEST) for preventing the lubricant dispensing apparatus from applying the lubricant in response to a predetermined environmental condition (temperature);

a means 28 for controlling an amount of lubricant applied by the lubricant dispensing apparatus over a predetermined time period;

wherein the means for controlling further comprises a timer (PILOT) for providing a time signal and a controller CPU for controlling the operation of the lubricant dispensing apparatus in response to the time signal;

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lounsberry, III et al. in view of Arens et al., U.S. Pub No. 202/0056592 A1.

Lounsberry shows, as discussed above in the rejection of claim 5, the wayside rail lubrication apparatus comprising the bypass device but fails to show the bypass device comprising a remote signal reception device.

Arens et al. teaches, in paragraph [0010], a wayside rail lubrication apparatus comprising a remote signal reception device for receiving a signal from a remote location for controlling the dispensing of the lubricant.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the bypass device of Lounsberry by implementing the remote signal reception device of Arens et al. in order to provide an easier method of monitoring and controlling the lubricant dispensing operation so that a labor cost can be reduced.

Allowable Subject Matter

5. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lubrication device for railway system.

Kostelny-Vogts et al., U.S. Patent 6,446,754 B1

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chong H. Kim whose telephone number is (703) 305-0922. The examiner can normally be reached on Monday - Friday; 9:00 - 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Bucci can be reached on (703) 308-3668. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

chk
March 24, 2003


CHONG H. KIM
PRIMARY EXAMINER